



**HIGH COURT OF ANDHRA PRADESH**  
FRIDAY ,THE THIRTEENTH DAY OF DECEMBER  
TWO THOUSAND AND NINETEEN

**PRESENT**

**THE HONOURABLE SMT JUSTICE T. RAJANI**

**WRIT PETITION NO: 3105 OF 2018**

**Between:**

1. M/s. Pullareddy Service Center, Dealer, Indian Oil Corporation Ltd.,  
Pullareddypeta (V), Duvvur (M) Dist. Kadapa -516175  
Represented by its proprietor, K.C. Obulamma.

**...PETITIONER(S)**

**AND:**

1. Indian Oil Corporation Limited A Company registered under the  
Companies Act, 1956  
and having its registered office at India Oil Bhavan  
G-9, Ali Yavar Jung Marg, Bandra (East)  
Mumbai 400 051.
2. Appellate Authority, Indian Oil Corporation,  
office at India Oil Bhavan  
G-9, Ali Yavar Jung Marg, Bandra (East)  
Mumbai 400 051.
3. Divisional Office, Tirupati, Indian Oil Corporation,  
office at D.No. 8-115/1, 1st Floors, MM Complex, R.C. Road, Royal  
Nagar, Tirupati - 517501.
4. The Chief Manager, Anti-Adulteration Cell, No. 139, Indian Oil Bhavan,  
Nungambakkam, Chennai - 600034.

**...RESPONDENTS**

**Counsel for the Petitioner(s): N ASHWANI KUMAR**

**Counsel for the Respondents: DOMINIC FERNANDES**

**The Court made the following: ORDER**



**\* SMT JUSTICE T. RAJANI**

**+ WRIT PETITION No.3105 of 2018**

% 13.12.2019

# M/s.Pullareddy Service Center,  
Rep. by its Proprietor.

... Petitioner

Vs.

\$ Indian Oil Corporation Limited and others

.... Respondents

! Counsel for the petitioners: SRI N.ASHWANI KUMAR

Counsel for the Respondents: DOMINIC FERNANDES

<Gist :

>Head Note:

? Cases referred:

1. 2011(3) ALD 505
2. 2014(4) ALD 139
3. 2018(2) GLT 217



**HIGH COURT OF ANDHRA PRADESH**

**WRIT PETITION No.3105 of 2018**

Between:

M/s.Pullareddy Service Center, Rep. by its Proprietor.

... Petitioner

Vs.

Indian Oil Corporation Limited and others

.... Respondents

Date of Judgment Pronounced: 13.12.2019

Submitted for Approval:

**SMT JUSTICE T. RAJANI**

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| 1. Whether Reporters of Local newspapers may be allowed to see the judgments ? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals      | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ? | Yes/No |

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**T. RAJANI, J**

**SMT JUSTICE T.RAJANI****WRIT PETITION No.3105 of 2018****ORDER:**

This writ petition is filed seeking to declare the action of the 4<sup>th</sup> respondent in suspending the sales of the petitioner vide report, dated 05.02.2015, and the further action of the 3<sup>rd</sup> respondent in terminating the Dealership Agreement, dated 10.04.1990, vide Termination Letter, dated 14.07.2015 and the orders of the 2<sup>nd</sup> respondent in confirming the termination vide orders, dated 03.01.2018, as illegal and arbitrary.

2. Heard the counsel for the petitioner and the counsel appearing for the respondents.

3. The petitioner entered into a dealership agreement with the 1<sup>st</sup> respondent under the B Category dealership for running of the outlet for the purpose of sale of motor spirit and/or HSD/Motor Oil, Greases and other motor accessories vide agreement, dated 10.04.1990. The petitioner had been successfully running it for over 25 years. The 1<sup>st</sup> respondent is an oil marketing company which is a public sector undertaking and comes under the aegis and directive control of the union of India and is tasked with refining and supply of Petrol and HDS among others. The petitioners outlet was subjected to periodic inspection and no irregularities or infirmities have been found by any officer for over 25 years. On 05.02.2015, the 4<sup>th</sup> respondent conducted an inspection and unilaterally held that an additional/unauthorized



double gear was found in the petrol dispensing unit manufactured by MIDCO company and that there was positive stock variation of (+) 821 Lts. in petrol and negative stock variation of (-) 393 Lts. in Diesel. The 4<sup>th</sup> respondent further proceeded to suspend the sale of petrol and diesel from the petitioner's outlet, without notice to the petitioner. Based on the report of the 4<sup>th</sup> respondent, the 3<sup>rd</sup> respondent issued a letter calling for explanation. The petitioner submitted his explanation stating that the seal of weights and measures is intact and, therefore, any additional fitting in the dispensing unit is impossible. The 3<sup>rd</sup> respondent issued a show cause notice, dated 27.06.2015, referring to the inspection report, dated 05.02.2015, sample test reports of the Terminal Labs and a mail of MIDCO Company dated 13.05.2015 and gave 7 days time for giving explanation to show cause as to why the dealership agreement should not be terminated. The petitioner gave his explanation on 26.02.2015. The terminal lab's reports show that the quality and quantity dispensed by all the units are functioning correctly and no irregularity is found. In reply to the show cause notice, the petitioner once again reiterated the explanation vide letter, dated 03.07.2015. But, surprisingly the 3<sup>rd</sup> respondent issued the termination letter, dated 14.07.2015. Hence, this writ petition.

4. The respondents filed counter denying the averments in the petition and reiterating the facts, which are stated in the petition. But, however, the respondents support its action stating that the seals being in tact do not mean that no unauthorized double commission was found in the dispensing unit and the contention that the 4<sup>th</sup> respondent



had not even opened the dispensing unit is not true. It is also contended that there is stock variation.

5. Heard Sri N.Aswani Kumar, learned counsel for the petitioner, and Sri Dominic Fernandes, learned counsel appearing for the respondents.

6. The counsel for the petitioner, at the outset, submits that he has been carrying on the business without any blemish since 25 years. In support of his contention that the petitioner has to be assumed as not having any role with regard to the gear in the dispensing unit he relies on certain judgments. The judgment of the High Court of Judicature at Hyderabad reported in **P.Laxmikant Rao vs. Union of India**<sup>1</sup> dealt with similar fact situation. The court observed that the equipment for measuring and supply of petroleum products is chosen and fitted by the respondents themselves and a dealer has absolutely no say in the matter. It also noted that the terms of agreement prohibit a dealer from meddling in any manner with the dispensing unit and if any defect is noticed, the only step which the dealer is required to take is that he should report it to the company. The above said judgment was relied upon by the subsequent judgment rendered by the High Court of Andhra Pradesh in W.P.No.30227 of 2013 reported in **Ram Lal Agarwal vs. Indian Oil Corporation Limited and others**<sup>2</sup>, wherein it was observed that the facts on record disclose that no variation was noticed in the quantity of fuel discharged from the dispensing unit. As

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<sup>1</sup> 2011(3) ALD 505

<sup>2</sup> 2014(4) ALD 139



seen from the extracted portion of the order of termination of dealership, plea of petitioner was rejected on the fact of the presence of double gear. It is not proved as to when such double gear was inserted. The order does not record a finding of deliberate insertion and actual manipulation of delivery of fuel. It also observed that the order proceeds as if mere existence is sufficient to terminate the dealership.

7. The counsel for the respondents, on the basis of the observation made by the Hon'ble High Court that the record does not disclose any variation in the quantity of fuel discharged from the dispensing unit, to distinguish the present case from the case dealt with by the High Court of Andhra Pradesh on facts, states that variation was noticed in the quantity in this case.

8. But, in the considered opinion of this court, even the noticed variation cannot fix the complicity of the petitioner, as the first cited judgment by the petitioner's counsel show that the dealer has absolutely no say in the matter and the terms of the agreement prohibit a dealer from meddling in any manner. It is not the contention of the respondents' counsel that the agreement does not contain such term and that the dealer has a role to play in respect of the double gear, which was noticed by the respondents.

9. In the Judgment of the High Court of Gauhati reported in **Nibedita Roy vs. The Union of India and ors**<sup>3</sup>, there was a contention that the petitioner therein had tampered with the seal, which is not

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<sup>3</sup> 2018(2) GLT 217



there in this case. The query raised by the High Court of Gauhati in the said ruling as to how double gear can be inserted without tampering the seal is also raised in this case, remains unanswered by the respondents.

10. The Inspection report clearly shows that the Weights and Measures seals were in tact. It also reveals that DU Covers seals were sealed with AAC. Hence, when the inspection report is to the effect that the seals are in tact, by virtue of the above rulings, the impugned orders cannot be sustained.

11. In the result, the Writ Petition is allowed setting aside the report, dated 05.02.2015, issued by the 4<sup>th</sup> respondent; the termination letter, dated 14.07.2015, issued by the 3<sup>rd</sup> respondent; and also the consequent order, dated 03.01.2018, issued by the 2<sup>nd</sup> respondent.

As a sequel, the miscellaneous applications pending, if any, shall stand closed.

December 13, 2019  
LMV

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**T. RAJANI, J**





**JUSTICE T.RAJANI**

**WRIT PETITION No. 3105 of 2018**

December 13, 2019

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